

Message Text

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ACTION EB-11

INFO OCT-01 ARA-16 ISO-00 AGR-20 CEA-02 CIAE-00 COME-00

DODE-00 FRB-02 H-03 INR-10 INT-08 L-03 LAB-06 NSAE-00

NSC-07 PA-04 RSC-01 AID-20 CIEP-02 SS-20 STR-08

TAR-02 TRSE-00 USIA-15 PRS-01 SP-03 FEA-02 OMB-01

SWF-02 DOTE-00 FPC-01 CCO-00 OTPE-00 FCC-03 OC-06

USPS-02 LOC-01 SCI-06 IO-14 SEC-03 OPIC-12 DRC-01

/219 W

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R 151829Z MAY 74

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 3810

INFO AMEMBASSY BOGOTA

AMEMBASSY LA PAZ

AMEMBASSY LIMA

AMEMBASSY QUITO

AMEMBASSY SANTIAGO

UNCLAS CARACAS 04342

E.O. 11652: N/A

TAGS: EGEN, VE

SUBJECT: VENEZUELAN REGULATIONS ON FOREIGN INVESTMENT, UNDER
ADEAN PACT DECISION 24.

1. AFTER LONG DELAY, VENEZUELAN GOVERNMENT PUBLISHED YESTERDAY
SPECIAL ISSUE OF OFFICIAL GAZETTE CONTAINING NEW REGULATIONS ON
FOREIGN INVESTMENT UNDER ANDEAN PACT DECISION 24, REQUIRING FOREIGN
FIRMS IN FIELDS OF SERVICES AND INTERNAL COMMERCE TO DISINVEST BY
SELLING 80 PERCENT OF OWNERSHIP TO VENEZUELAN OVER NEXT THREE
YEARS. THERE WERE NO SURPRISES IN REGULATIONS, WHOSE PROVISIONS
WERE AS EXPECTED. DELAY IN ISSUANCE MAY HAVE BEEN DUE SIMPLY
TO INVOLVED LEGAL PROCESS OF CHECKING REGULATIONS CAREFULLY AGAINST
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ALL PERTINENT ANDEAN PACT DECISION AND AGREEMENTS. TEXT OF

REGULATIONS IS BEING SENT BY AIRGRAM TO ALL ADDRESSEES.

2. REGULATION FOR SPECIAL RULES REFERRED TO BY CHAPTER III OF CARTAGENA AGREEMENT RESERVES TO NON-FOREIGN FIRMS FOLLOWING FIELDS OF ECONOMIC ACTIVITY: (ARTICLE 1) PUBLIC SERVICES OF TELEPHONE, MAIL, TELECOMMUNICATIONS, DRINKING WATER, AND SEWAGE, GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRICITY; GUARD AND SECURITY SERVICES; TELEVISION AND RADIO BROADCASTING; NEWSPAPERS AND MAGAZINES IN SPANISH (EXCEPT FOR POSSIBLE EXCEPTION FOR SPANISH MAGAZINES OF SCIENTIFIC OR CULTURAL CHARACTER); DOMESTIC TRANSPORTATION OF PERSONS OR GOODS; INTERNAL COMMERCE IN GOODS AND SERVICES BY COMPANIES DEVOTED TO SUCH ACTIVITIES EXCEPT IN CASE OF GOODS OR SERVICES PRODUCED BY THEM IN THE COUNTRY; AND PROFESSIONAL SERVICES IN CONSULTING, ADVICE, DESIGN AND ANALYSIS OF PROJECTS, AND CARRYING OUT OF STUDIES IN GENERAL IN AREAS REQUIRING

PARTICIPATION OF PROFESSIONALS WHOSE ACTIVITIES ARE GOVERNED BY NATIONAL LAW. FOREIGN FIRMS ENGAGED IN SUCH ACTIVITIES MUST SELL 80 PERCENT OF OWNERSHIP TO VENEZUELAN WITHIN THREE YEARS DATING FROM MAY 1, 1974 (ARTICLE 2).

3. INSURANCE COMPANIES, COMMERCIAL BANKS, AND OTHER FINANCIAL INSTITUTIONS REMAIN SUBJECT TO ALREADY EXISTING LEGISLATION, ALTHOUGH THE SUPERINTENDENCY OF FOREIGN INVESTMENTS WILL CHECK THEIR OWNERSHIP SITUATION (ARTICLE 4).

4. COMMITTEE COMPOSED OF MINISTERS OF FOREIGN AFFAIRS, FINANCE, COMMERCE (FOMENTO), FOREIGN ECONOMIC AFFAIRS AND CHIEF OF CORDIPLAN WILL MAKE STUDY OF LATER RESERVING OTHER SECTORS FOR NATIONAL COMPANIES IN ACCORDANCE WITH ARTICLE 38 OF DECISION 24 (ARTICLE 5).

5. REGULATION OF COMMON RULES FOR TREATMENT OF FOREIGN CAPITAL WITH RESPECT TO MARKS, PATENTS, LICENSES AND ROYALTIES APPROVED BY DECISIONS NUMBER 24, 37, 37-A AND 70 OF THE COMMITTEE OF THE CARTAGENA AGREEMENT ESTABLISHES SUPERINTENDENCY OF FOREIGN INVESTMENTS WITHIN MINISTRY OF COMMERCE (FOMENTO)(ARTICLES 1-10), WHICH WILL HAVE ADVISORY COMMITTEE COMPOSED OF REPRESENTATIVES OF MINISTRIES OF FINANCE AND COMMERCE, CORDIPLAN, CENTRAL BANK, AND FOREIGN TRADE INSTITUTE TO DEAL WITH APPLICATIONS FOR UNCLASSIFIED

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FOREIGN INVESTMENT, CONTRACTS FOR CONVERTING FOREIGN FIRMS INTO NATIONAL OR MIXED FIRMS, AND APPROVALS OF IMPORTATION OF TECHNOLOGY AND OF MARKS, PATENTS, LICENSES AND ROYALTIES.(ARTICLES 11-16).

6. FOREIGN NATIONALS CAN OBTAIN SAME STATUS AS VENEZUELAN IF THEY HAVE HAD ONE YEAR OR MORE UNINTERRUPTED RESIDENCE IN COUNTRY AND RENOUNCE RIGHT TO RE-EXPORT CAPITAL OR REMIT DIVIDENDS

ABROAD. (ARTICLE 21).

7. SEVEN CRITERIA ARE SET FOR NEW FOREIGN INVESTMENT: (A) 50 PERCENT OR MORE VALUE ADDED WITHIN VENEZUELA, (B) EXPORT ACTIVITY WITH 30 PERCENT OR MORE VALUE ADDED WITHIN VENEZUELA, (C) INCREASED EMPLOYMENT, (D) INVESTMENT IN RELATIVELY UNDERDEVELOPED AREAS, (E) DESIRABLE TECHNOLOGY, (F) INVESTMENT TO BE CONVERTED TO NATIONAL OR MIXED ENTERPRISES WITHIN TERMS OF CARTAGENA AGREEMENT DECISION 24, AND (G) COMMITMENT TO INVEST OR REINVEST RESOURCES GENERATED WITHIN COUNTRY BY ACQUIRING SECURITIES ISSUED FOR DEVELOPMENT.

8. FOREIGN INVESTORS WILL HAVE RIGHT TO REMIT ABROAD AMOUNTS RECEIVED FROM SALE OF THEIR SHARES TO NATIONAL INVESTORS OR FROM LIQUIDATION OF COMPANIES (ARTICLE 33).

9. NOTE: REGULATIONS DO NOT EXPLICITLY MENTION 14 PERCENT LIMITATION

ON REMITTANCES, BUT THIS IS STILL BINDING BECAUSE OF PROVISIONS IN ANDEAN PACT DECISION 24.

10. EMBASSY WILL BE CONSULTING WITH AMERICAN CHAMBER OF COMMERCE AND INDIVIDUAL BUSINESSMEN AFFECTED DURING NEXT WEEK, AND WILL THEN SEND ITS ASSESSMENT OF EFFECTS OF REGULATION.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INVESTMENT LAW, FOREIGN INVESTMENT CONTROLS
Control Number: n/a
Copy: SINGLE
Draft Date: 15 MAY 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974CARACA04342
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740120-0427
From: CARACAS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740547/aaaabpkg.tel
Line Count: 140
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: boyleja
Review Comment: n/a
Review Content Flags:
Review Date: 28 OCT 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <28 OCT 2002 by cunninfx>; APPROVED <06 JAN 2003 by boyleja>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: VENEZUELAN REGULATIONS ON FOREIGN INVESTMENT, UNDER ADEAN PACT DECISION 24.
TAGS: EGEN, VE, ANCOM
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005